IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

SECOND APPEAL NO. 433 OF 2005

Shridhar Laxman Dahival & Ors. ... Appellants.

Versus

Arun Narayandas Shah & Ors..... Respondents.

Mr. Sanjay Kshirsagar for the Appellants.

Mr. Tanaji Mahagude with Mr. A. V. Anturkar for the Respondents.

CORAM : ANOOP V. MOHTA, J.

DATED : 1ST DECEMBER, 2005.

P.C.:

Heard learned Counsel appearing for the parties.

2. Both the courts come to a concurrent finding that the plaintiffs are the exclusive owner of the suit premises and the defendants are monthly tenant and rent is Rs.21/- per month. There was arrears of rent remained to be unpaid. Therefore, considering the rival contentions, both the courts come to a conclusion that the plaintiff is entitled for possession of the suit property in question. The

issues about the maintainability as well as legality of notice were also held in favour of the plaintiffs. Therefore, the trial court has decreed the suit for possession and confirmed by the appellate court.

3. Learned Counsel appearing for the appellants (defendants) has raised various issues about ownership of the plaintiffs, including of the title to the property in question. The appellant / defendant No.1, in such circumstances, without going to the merits of the controversy, even if any, between the owners, in no way help to protect his right of possession as a tenant. The interse dispute between the landlords in no way affects the tenancy created and its termination in question and in the fact and circumstances of the case.

4. Considering the above, there is no reason to interfere with the concurrent findings given by both the courts below. Second appeal is dismissed, accordingly and is hereby disposed of.

Sd/-

(ANOOP V. MOHTA,J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

CIVIL APPLICATION NO. 656 OF 1999

IN

SECOND APPEAL NO. 433 OF 2005

Shridhar Laxman Dahival & Ors. ... Appellants.

Versus

Arun Narayandas Shah & Ors..... Respondents.

Mr. Sanjay Kshirsagar for the Appellants.

Mr. Tanaji Mahagude with Mr. A. V. Anturkar for the Respondents.

CORAM : ANOOP V. MOHTA, J.

DATED : 1ST DECEMBER, 2005.

P.C.:

The court has granted stay of execution of the decree in the year 1999. The same is in operation till this day. In view of the dismissal of the present second appeal, the interim order stands vacated.

2. However, on the request of the learned Counsel for the appellants, time of six months is granted to the appellants / orig. defendant Nos.1 and 2 to vacate the premises on their filing usual undertaking by all adult members within three weeks in the trial court. The appellants shall not create any third party interest during this period. Failing to comply with the filing of undertaking and/or breach of condition of the undertaking, the plaintiffs / landlords are at liberty to execute the decree in accordance with the law.

3. This civil application is disposed of, accordingly.

Sd/-

(ANOOP V. MOHTA,J.)